

Appl. No. 09/744,384
Amendment dated January 30, 2004
Reply to Office Action of September 24, 2003

REMARKS

Applicants thank Examiner for indicating that claims 1-11, 19-20, 22-24, and 26-27 are allowed.

Claims 1-11, 18-20, 22-24, 26-27, and 31-34 are pending. Claims 18 and 19 have been amended. Claims 31-34 have been added. No new matter has been inserted.

Support for claim 18 can be found in the specification at least at page 25, lines 29-30 where it is disclosed that the percentage of TH⁺ cells was 14.1 +/- 4.2% which equals 9.9% as a lower part of the range. Claim 19 was simply amended to make it more clear. Support for claim 31 can be found in the specification at least at p. 8, lines 21-23. Support for claim 32 can be found in the specification at least at p. 12, line 27. Support for claim 33 can be found in the specification at least at p. 25, lines 29-30. Support for claim 34 can be found in the specification at least at page 25, lines 29-30, where it is disclosed that the percentage of TH⁺ cells was 14.1 +/- 4.2%, which equals 9.9% as a lower part of the range, and at page 19, lines 9-10, where it is disclosed that the percentage of TH⁺ cells was 18.4 +/- 5.1, which equals 23.5% as an upper part of the range.

35 U.S.C. § 102

Claim 18 was rejected under 35 U.S.C. § 102(b) as anticipated by Della Valle (USPN 5,218,094). Claim 18 was also rejected under 35 U.S.C. § 102(b) as anticipated by Debeir et al. (Neuroscience, 82(3):739-752 (1998)). Applicants respectfully traverse both rejections.

While not conceding the correctness of the Examiner's position, in the interest of advancing prosecution, Applicants have amended claim 18 to require "at least 9.9% of the population of cells being dopaminergic cells" to obviate this rejection.

Neither Della Valle or Debeir teach this feature of claim 18. Della Valle discloses that "visualization of the number of dopaminergic neurons in the culture system indicated that these cells were approximately 0.1-0.2% of the total cell population present in vitro." *Col. 11, lines 18-21*. Debeir discloses, at p. 740, that dopaminergic neurons are defined by TH (tyrosine hydroxylase) immunoreactivity and, at p. 744, that "in pure neuronal culture, TH⁺ neurons represented 1.6% of total cell number." Therefore, neither Della Valle or Debeir anticipate or suggest claim 18.

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Applicants respectfully request that these rejections be withdrawn.

Double Patenting

Claim 18 was provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 34-36 over copending Application No. 10/258,975.

Applicants respectfully traverse this rejection.

While not conceding the correctness of the Examiner's position, in the interest of advancing prosecution, Applicants enclose herewith a terminal disclaimer to obviate this rejection. Applicants respectfully request that this rejection be withdrawn.

Conclusion

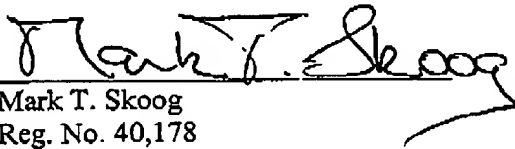
In conclusion, each of claims 1-11, 18-20, 22-24, 26-27, and 31-34 are in condition for allowance and notification to that effect is earnestly solicited. The Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below, if the Examiner believes that doing so will expedite the prosecution of this patent application.

Respectfully submitted,

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Date:

Jan 30, 2004


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